

STATE OF INDIANA) IN THE BARTHOLOMEW CIRCUIT COURT
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COUNTY OF BARTHOLOMEW) CAUSE NO.

DAVID S. SMITH, PERSONAL REPRESENTATIVE
OF THE ESTATE OF ERIC L. SMITH, DECEASED

vs.

MARK GORBETT, Sheriff of Bartholomew County;
COMMISSIONERS OF BARTHOLOMEW COUNTY;
ADVANCED CORRECTIONAL HEALTHCARE INC.
NORMAN R. JOHNSON, MD;
BRITTANY STAM, LPN; GINA THOMPSON, RN

COMPLAINT FOR WRONGFUL DEATH

Comes Now David S. Smith, by counsel and for cause of action against the above named defendants says as follows:

I.

PARTIES

1. David S. Smith is the personal representative of the Estate of Eric L. Smith by order of the Bartholomew Circuit Court in Cause Number 03C01-1212-ES-6470, dated 20th day of December, 2012. Eric L. Smith died on November 26, 2012, while in the custody of the Bartholomew County Jail. Eric L. Smith left three dependent children.

2. Mark Gorbett is the duly elected Sheriff of Bartholomew County and as such was charged with statutory and common law duties of maintaining the County Jail and caring for the welfare of its inmates.

3. The Commissioners of Bartholomew County are the duly elected representatives of the County and are charged with statutory and common law duties and responsibilities to maintain and operate the properties of the County, including the county jail, in a manner that provides for the safety of all citizens, including inmates of said jail.

EXHIBIT

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4. Advanced Correctional Healthcare Inc., hereinafter ACH, is a corporation doing business in the State of Indiana providing contractual healthcare for inmates of correctional institutions. At all times pertinent hereto, ACH was contracted with the Bartholomew County Sheriff, and the Bartholomew County Commissioners to provide healthcare for inmates of the Bartholomew County Jail.

5. Norman R. Johnson, MD, is the president and CEO of Advanced Correctional Healthcare Inc.

6. Gina Thompson, RN, is a nurse employed by Bartholomew County to provide healthcare for inmates of the Bartholomew County Jail. She has statutory and common law duties to provide reasonable care for her patients.

7. Brittany Stam, LPN, is a nurse employed by Bartholomew County to provide healthcare for the inmates of the Bartholomew County Jail. She has statutory and common law duties to provide reasonable care for her patients.

8. The Medical Personnel involved are not qualified under the Indiana Medical Malpractice Act, IC 34-18-1- *et.sec.*

PROCEDURE

9. This is an action for wrongful death brought under I.C. 34-23-1-1.

10. That a timely NOTICE OF TORT CLAIM was served on the defendants, Bartholomew County Commissioners, and the Bartholomew County Sheriff on May 14, 2013.

11. That a timely ADDENDUM TO NOTICE OF TORT CLAIM was served on the defendants, Bartholomew County Commissioners, and the Bartholomew County Sheriff on May 16, 2013.

FACTS

12. That at the time of his death, Eric L. Smith was an adult male, twenty seven (27) years of age, he had three minor dependent children, Erica J. Smith, Bronson Lee Smith, and Maleigh Jo Smith.

13. Early in November, 2012, Eric L. Smith suffered a heart attack and was confined to the Columbus Regional Hospital. He was released to his home on November 18th, 2012.

14. Within hours of his release, Eric L. Smith was taken into custody under a civil "body attachment" issued by Bartholomew Superior Court 2 in cause number 03DO2-0901-DR-000005.

15. After being taken into custody on November 18, 2012, Eric L. Smith was placed in the jail "infirmary", in actuality, a cell block reserved for inmates who are receiving medication.

16. Approximately six (6) hours after being taken into custody, Eric has the first of several fainting or 'blackout' episodes.

17. Eric's condition continued to worsen, he had more fainting episodes and started to bleed from the mouth and nose.

18. Eric was not seen or examined by any jail medical personnel until he had a brief conversation with defendant Gina Thompson on November 21 at which time he shows her the blood that he had spat into the toilet

19. Over the next several days Eric's condition became worse, and he continued to lose large quantities of blood.

20. On November 26, after eight (8) days in the custody of the defendants, Mark Gorbett and the County of Bartholomew, and the care of the defendants, Advanced Correctional Healthcare Inc. , Gina Thompson, R.N. and Brittany Stam, L.P.N., Eric smith was transported to the Columbus Regional Hospital and placed in intensive care.

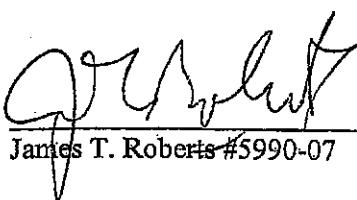
21. Later that day, Eric L. Smith died.
22. Eric L. Smith's death is attributed to a massive loss of blood and Dextromethorphan (cough medication) poisoning.

ALLEGATIONS OF NEGLIGENCE

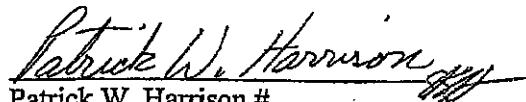
23. Eric L. Smith's death was the direct and proximate result of the following acts and omissions off the named defendants:

- a. failure to timely diagnose and treat his medical condition,
- b. failure to train jail personnel to recognize the medical needs of jail inmates,
- c. failure to staff the jail with adequate medical personnel to meet the medical needs of seriously ill inmates,
- d. failure to timely administer appropriate medical treatment,
- e. failure to monitor inmates' access to substances, such as Dextromethorphan,
- f. indifference to the condition and obvious medical needs of the Plaintiff's decedent.

WHEREFORE, plaintiff prays for damages as proven, including but not limited to; expenses of the last illness of decedent, burial expenses, loss of support to his minor children, loss of love and affection for his minor children, costs of this action, and all other damages as permitted by law.



James T. Roberts #5990-07



Patrick W. Harrison
Attorneys for the Plaintiff